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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,821	03/15/2001	Stewart Brodie	01108	5626

7590 07/01/2004

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EXAMINER

MAURO JR, THOMAS J

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,821

Applicant(s)

BRODIE ET AL.

Examiner

Thomas J. Mauro Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-9 are pending and are presented for examination. A formal action on the merits of claims 1-9 follows.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the essential elements of the invention as described in the specification and the claims. For example, additional figures showing flow charts of the processes executed in the specification would be helpful in allowing one to better understand the invention. An example of this would be a flow chart illustrating the practical example on page 7 of the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by McGuire et al. (U.S. 6,493,871).

Regarding claim 1, McGuire teaches a system for the generation and transmission of data to a number of items of electrical apparatus, said system comprising: a network to which a number of servers are connected, said servers controlled to issue data for distribution through the network to the number of items of electrical apparatus [**McGuire -- Figure 2 and Col. 7 lines 8-23 -- Update and download servers function over the network to provide updated software to client computers**] and, on the basis of the data, said electrical items adopt an operating configuration wherein said system further includes memory means [**McGuire -- Figure 1 and Col. 5 lines 42-67 -- Col. 6 lines 1-10 -- Client computers have memory which stores the**

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operating system and all software and code for executing processes] which is adapted to identify when incorrect data is issued by at least one of said servers [McGuire -- Col. 9 lines 9-16 and Col. 14 lines 29-41 – **Client computers can detect if a download server is sending incorrect data based upon the hash values of the files being provided]** and identify the server(s) from which the data is issued [McGuire -- Col. 11 lines 17-31 – **URL's specifying a specific servers identify the particular servers which are providing data. Thus, when incorrect data is received, the client knows which download server has provided the incorrect data]**.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al. (U.S. 6,493,871), as applied to claims 1 and 2 above respectively, in view of Harif et al. (U.S. 6,581,110).

Regarding claim 2, McGuire teaches the invention substantially as claimed, as aforementioned in claim 1 above, but fails to explicitly teach wherein the electrical apparatus, i.e. client computer, is a broadcast data receiver.

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Harif, however, discloses a client/server system for propagating authentic world time to client systems by having them broadcast a request to servers to provide the time and listening for a response [**Harif -- Col. 2 lines 62-65, Col. 5 lines 15-41 and Col. 6 lines 6-16**].

Both McGuire and Harif are concerned with synchronizing or updating information in client computers from servers. In addition, broadcasting, as a means for retrieving information, is a well-known method for requesting data from content providers, i.e. servers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the clients to broadcast requests and listen to receive information from servers, as taught by Harif into the invention of McGuire, in order to reduce network traffic when updating a multitude of clients and to receive information from a server which responds first, which being the closest server will most likely provide the quickest download time.

Regarding claim 3, McGuire-Harif teach the invention substantially as claimed, as aforementioned in claim 2 above, including wherein each receiver is provided with a memory means [**McGuire -- Figure 1 and Col. 5 lines 42-67 – Col. 6 lines 1-10 – Client computers have memory which stores the operating system and all software and code for executing processes**].

7. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al. (U.S. 6,493,871) and Harif et al. (U.S. 6,581,110), as applied to claims 3, 4 and 5 above respectively, in view of Yamamoto (US 2003/0097370).

Regarding claim 4, McGuire-Harif teach the invention substantially as claimed, as aforementioned in claim 3 above, but fails to teach generating a signal to identify the server with the fault, i.e. distributing incorrect information, and sending the information to the client for storage.

Yamamoto, however, discloses a system which distributes load information for a plurality of servers, which is stored by the client, to indicate failure information, i.e. a server transmitting bad or incorrect data [Yamamoto -- Figures 3 and 4, page 4 paragraphs [0090, 0092 and 0094] and page 7 paragraph [0128] – Server statuses are reported to the client to indicate a failure. It would have been obvious that a type of failure could be a server distributing wrong or incorrect information in order to prevent incorrect data from being distributed to the client in the future. Thus, by storing the resource management table, the client will know what servers have failed].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the generation and distribution of resource management tables indicating failure of servers, i.e. servers distributing incorrect data, as taught by Yamamoto into the invention of McGuire-Harif, in order to automatically assign resource providers to clients during dynamic changes to resource operating statuses.

Regarding claim 5, McGuire-Harif-Yamamoto teach the invention substantially as claimed, as aforementioned in claim 4 above, wherein data sent from a server which is identified in memory [Yamamoto -- Figures 3 and 4, page 4 paragraphs [0090, 0092 and 0094] and

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page 7 paragraph [0128] – Server statuses are reported to clients to indicate a failure, i.e. server transmitting incorrect data] is declined [McGuire -- Col. 14 lines 37-41 – If server is known to be transmitting incorrect data (through use of resource management table of Yamamoto), receiving/installation of data (files) is prevented].

Regarding claim 6, McGuire-Harif-Yamamoto teach the invention substantially as claimed, as aforementioned in claim 5 above, including wherein if data is declined for a particular server, the client searches for data from another server **[McGuire -- Col. 11 lines 17-31, Col. 13 lines 6-12 and Col. 14 lines 37-41 and 47-55 – If data is not installed, i.e. incorrect data, client script file provides a second, i.e. backup, URL in case the first server is not available or provides incorrect data].**

Regarding claim 7, McGuire-Harif-Yamamoto teach the invention substantially as claimed, as aforementioned in claim 4 above, including transmitting information around the network for storage in other clients which comprises a resource management table indicating failure information, i.e. servers transmitting incorrect data, for various servers on the network **[Yamamoto -- Figures 3 and 4, page 4 paragraphs [0090, 0092 and 0094] and page 7 paragraph [0128] – Server statuses are reported to all clients to indicate a failure. It would have been obvious that a type of failure could be a server distributing wrong or incorrect information in order to prevent incorrect data from being distributed to other clients. Thus, by storing the resource management table, the clients will know what servers have failed].**

Regarding claim 8, McGuire-Harif-Yamamoto teach the invention substantially as claimed, as aforementioned in claim 4 above, including wherein another server in the system transmits the failure information signal to the clients **[Yamamoto -- Figure 1, page 4 paragraphs [0085 and 0090-0094] – Database servers are linked to distributing server (6) which provide resource management tables to the clients indicating failure information].**

Regarding claim 9, McGuire-Harif-Yamamoto teach the invention substantially as claimed, as aforementioned in claim 5 above, including clearing the server details from the clients memory when the server, which had failed, i.e. issued incorrect data, is corrected **[Yamamoto -- Page 6 paragraph [0118] and page 7 paragraphs [0124 and 0128] – Resource management tables are updated during predetermined intervals to reflect changes in status of the servers, i.e. server which had previously been indicated as failed, is now fixed and back on-line].**

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Carpenter et al. (U.S. 6,748,416) discloses a client side method for improving performance of network services by adjusting the rankings by which servers are accessed based upon successful and unsuccessful connection attempts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mauro Jr. whose telephone number is 703-605-1234. The examiner can normally be reached on M-F 8:00a.m. - 4:30p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TJM

June 24, 2004



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